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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/535,763	05/20/2005	Stefan Werner	049202/289226	049202/289226 9269	
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101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			ART UNIT	PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions to time may be avaisable under the provision of 37 CFR 1.704(b): If NO pands for really is specified above, the maximum statutory period will apply and will expire SX (b) MONTHS from the miling date of this communication. Failute to require by which the set or estended péreod for relegy will, by statute, cause the application to become ABANDONED (38 U.S.C. § 133). Any reply received by the Office later than remembers after the mailing date of this communication, even if timely fired, may reduce any reinter patient than adjustment. Set 37 CFR 1.704(b): Status 1) Responsive to communication(s) filled on 20 May 2005. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-34 is/are pending in the application. 4) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 7) Claim(s) is/are as subjected to 8. Claim(s) is/are objected to 8. Claim(s) is/are objected to 9. Claim(s) is/are as a subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on 20 May 2005 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Appli			Application No.	Applicant(s)				
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WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Estensions of time may be available under the provisions of 37 CFR 1.136(a). In or event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. 11 NO protof or righly a specified above, the maximus actitudy period will poly and will capte SIX (8) MONTHS from the mailing date of this communication. 11 NO protof or righly a specified above, the maximus actitudy period will poly and will capte SIX (8) MONTHS from the mailing date of this communication. Period of the communication of the communicat	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
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	* See the attached detailed Office action for a list of the certified copies not received.							
	Attachment(s)							
1) 🔀 Notice of References Cited (PTO-892) 4) 🛄 Interview Summary (PTO-413)								
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date.	2) Notic	e of Draftsperson's Patent Drawing Review (PTO-948)						
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application 6) Other:	асенс друшсация							

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DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-31, drawn to a method of controlling a genetically modified organism, the genetically modified organism, and a system of controlling expression of a protein.

Group II, claim(s) 32-34, drawn to A composition for external application to a multi-cellular organism.

The inventions are independent or distinct, each from the other because:

The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The claims are related by the technical feature of a protein that is a signal for causing expression of a protein, this feature is not special since it does not constitute and advance over the prior art. Fitchen et al (WO 9521248) teach an MP protein that is applied exogenously to facilitate protein expression and cell to cell movement in a multicellular organism (see claims, for example).

Furthermore, each Group has functions and components that the other does not require and may be used for different processes and in different applications.

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For example, the composition of Group II may be used as a protein supplement to a food for example, or it may be used in a yeast two-hybrid system to identify bound proteins, and does not need to be used with the methods of group I. Likewise the Methods of Group I can use a different signal peptide than that used of Group II.

For the reasons given above, the two groups are independent and distinct and restriction is therefore proper.

In addition to the restriction requirement set forth above, Applicant, should they select Group I is also required to choose whether the protein portion is plant, animal or artificial as set forth in claims 20-22, and select only ONE origin for the peptide thusly claimed for examination.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions

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unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent Page whose telephone number is (571)-272-5914. The examiner can normally be reached on Monday-Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571)-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brent T Page

' PHUONG T. BUI PRIMARY EXAMINER

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